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10/524,803	02/16/2005	Takaaki Kishigami	MAT-8669US	1028
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,803

Applicant(s)

KISHIGAMI ET AL.

Examiner

THINH D. TRAN

Art Unit

2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-35 and 39-43 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 29-35 and 39-43 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 16 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 29-35, 39-43 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 30, 34, 35 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 lines 4-5, claim 34 lines 4-5, claim 35 lines 4-5 cite "the partial-space orthogonizing means", it does not refer back to any previous element. There is no antecedent basis.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 29, 30, 33, 34, 35, 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over ONGGOSANUSI et al. (US 7,110,378) in view of WALLACE et al. (US 20020193146) and ALASTALO et al. (US 20010047424).

Regarding claim 29, ONGGOSANUSI teaches a base station apparatus comprising: a partial-space orthogonalizing section for performing a weighting process (see col. 5 lines 24-30, wherein the beamformer weight (see fig. 1 block 30) determiner a set of beamformer weight then pass to transmitter module, wherein the transmitter module would comprise "partial-space orthogonalizing", (fig. 2 block 38, block)), for enhancing orthogonality over a propagation path for the SDM transmission (see col. 5 lines 40-44, wherein the weight is applied to a unique sub-channel, which would read in the claim as "a propagation path," col. 10 line 4-7, wherein the weights are deprive from an orthogonal eigenvector and applied to the signal to transmit or receive signal via the orthogonal sub channel, which would read in the claim as enhancing orthogonality, wherein with beamforming technology, it enables to reuse frequency and time slot for transmission), on a

first transmission data sequence to be sent by the SDM transmission to the SDM compatible mobile station (see col. 6 lines 15-29, wherein a stream of data is transmitted to a receiver, the transmitter module would consider as the “space division multiplex”, while the receiver would read in the claim as the “compatible mobile station”); a beam forming section for forming a plurality of transmission beams (see col. 5 lines 24-30, wherein the beamformer weight (see fig. 1 block 30) determiner a set of beamformer weight then pass to transmitter module, see col.6 lines 2-8, wherein the signal is being weighted by the beamformer weight vectors, to form a directional transmission, which the signal stream is then coupled to each of the transmit antennas) for an output of the partial-space orthogonizing section (see col. 5 lines 65-67 and col. 6 lines 1-5, wherein in response to the signal modulator 18 and connected to the weight coupling, which would consider as the “partial-space orthogonizing”) in order to send the first transmission data sequence by the SDM transmission to the SDM compatible mobile station (see col. 6 lines 15-29) and a wherein it shows the N-user access without multi-access interference (see col. 21 lines 16-20, col. 21 lines 32-43); and a plurality of antennas for transmitting the first transmission data sequence using the plurality of transmission beams (see col. 4 lines 61-63, fig. 1 block 14),

However, ONGGOSANUSI fails to teach a deciding section for deciding an allocation for a plurality of mobile stations within a communication area, by judging: 1) whether one of the plurality of mobile stations is a space-division-multiplex (SDM) compatible mobile station by use of a predetermined SDM evaluation criterion; and 2)

whether another of the plurality of mobile stations is a space-division- multiple-access (SDMA) compatible mobile station to which a SDMA transmission can be applied along with the SDM compatible mobile station by use of a predetermined SDMA evaluation criterion; a single transmission beam for a second transmission data sequence to be sent by the SDMA transmission to the SDMA compatible mobile station; and a plurality of antennas for transmitting the first transmission data sequence using the plurality of transmission beams and the second transmission data sequence using the single transmission beam.

But, WALLACE in the same field of endeavor teaches the base station determines the whether the mobile station support the diversity by query the mobile station and using the information from the mobile station to determine if the mobile station has one antenna or multiple antennas (**see par. 104**); the base station can communicated in mixed mode system, which the base station can communicated with SIS and MIMO stations (**see par. 129**);

Thus, it would have been obvious to the person ordinary skill in the art at the time of the invention to implement the determination the number of antenna the mobile station has to determine whether the mobile station support spatial diversity as taught by WALLACE for the system of ONGGOSANUSI to provide a deciding section for judging whether the mobile station is SDM compatible or incompatible by using a criterion.

The motivation would have been to provide high-quality, efficient communication in mixed mode system (see WALLACE par. 6);

However, ONGGOSANUSI and WALLACE do not explicitly teach 2) whether another of the plurality of mobile stations is a space-division- multiple-access (SDMA) compatible mobile station to which a SDMA transmission can be applied along with the SDM compatible mobile station by use of a predetermined SDMA evaluation criterion; a single transmission beam for a second transmission data sequence to be sent by the SDMA transmission to the SDMA compatible mobile station; and a plurality of antennas for transmitting the first transmission data sequence using the plurality of transmission beams and the second transmission data sequence using the single transmission beam.

But, ALASTALO in same field of endeavor teaches the access point determine whether space division multiple access technology can be applied for each terminal, whether the terminal can be served simultaneously with one or more other terminals **(see par. 57 and par. 58)**;

Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement the determination whether the terminal can support SDMA base on packet length or spatial signature as taught by ALASTALO in the system of WALLACE and ONGGOSANUS to determine whether the mobile station is SDMA compatible by using a criterion and to provide that a single transmission beam for the SDMA, which as indicated by ONGGOSANUS that there are plurality of antennas using to transmit plurality of transmission beams and that the terminals can not be served simultaneously if the spatial signatures are similar as taught by ALASTALO, then it is obvious to use one of the plurality of transmission as taught by

ONGGOSANUS for a transmission stream for SDMA and using the other transmission stream for SDM.

The motivation would have been to prevent reduce interference and provide more efficient communication resource (see ALASTALO par. 9).

Regarding claim 30, ONGGOSANUSI teaches a base station apparatus according to claim 29, wherein forming the transmission beam for reducing the interference by the beam forming section is to form the transmission beam from the transmission data sequence to the allocated SDMA compatible mobile station **(see col. 9 lines 16-19, wherein the matrix H is represented as the overall channel characteristic for the available signal paths of the transmitted signal, in col. 21 lines 59-60 shows that the beamformer optimize the k-th user BER, wherein the BER depend on the interference, which the lower error rate the lower the interference)** and an output of the partial-space orthogonizing means, in a manner being orthogonal to a channel estimation matrix on another mobile station to access simultaneously **(see col. 9 lines 16-19, wherein the matrix H is represented as the overall channel characteristic for the available signal paths. see col. 10 lines 1-7, wherein the output after beamformer vector derives from the eigenvectors would be orthogonal to the matrix H).**

Regarding claim 33, ONGGOSANUSI teaches a base station apparatus according to claim 29, wherein, forming the transmission beam for reducing the interference by the beam forming section is to form the transmission beam orthogonal to a channel estimation matrix on another of a SDM incompatible mobile station and the

SDM compatible mobile station to access simultaneously (**see col. 9 lines 16-19, wherein the matrix H is represented as the overall channel characteristic for the available signal paths of the transmitted signal, in col. 21 lines 59-60 shows that the beamformer optimize the k-th user BER, wherein the BER depend on the interference, which the lower error rate the lower the interference**).

Regarding claim 34, ONGGOSANUSI teaches a base station apparatus according to claim 29, further comprising space-time coding means for making a space-time coding process on the transmission data sequence to the SDM compatible mobile station (**see col. 6 lines 1-8, wherein the modulated signal stream are transmitted over multiple antennas (space time coded) and weighted with corresponding value (partial-space orthogonizing)**), the transmission data sequence space-time-coded being outputted to the partial-space orthogonizing means (**see col. 5 lines 30-35, wherein the stream of data transmits to the single stream transmitter module 18, wherein the transmitter module would comprise partial-space orthogonizing**).

Regarding claim 35, ONGGOSANUSI teaches a base station apparatus according to claim 30, further comprising space-time coding means for making a space-time coding process on the transmission data sequence to the SDM compatible mobile station (**see col. 6 lines 1-8, wherein the modulated signal stream are transmitted over multiple antennas (space time coded) and weighted with corresponding value (partial-space orthogonizing)**), the transmission data sequence space-time-coded being outputted to the partial-space orthogonizing means (**see col. 5 lines 30-**

35, wherein the stream of data transmits to the single stream transmitter module 18, wherein the transmitter module would comprise partial-space orthogonizing).

Regarding claim 39, WALLACE and ALASTALO teach a base station apparatus according to claim 29, wherein the SDM transmission evaluation criterion and the SDMA evaluation criterion are to be calculated depending upon a channel estimation value and received quality received from the SDM compatible mobile station and the SDMA mobile station within the communication area (see WALLACE par. 104-106 and ALASTALO par. 57, 58).

Regarding claim 40, WALLACE and ALASTALO teach a base station apparatus according to claim 30, wherein the SDM transmission evaluation criterion and the SDMA evaluation criterion are to be calculated depending upon a channel estimation value and received quality received from the SDM compatible mobile station and the SDMA mobile station within the communication area (see WALLACE par. 104-106 and ALASTALO par. 57, 58).

Regarding claim 41, WALLACE and ALASTALO teach a base station apparatus according to claim 33, wherein the SDM transmission evaluation criterion and the SDMA evaluation criterion are to be calculated depending upon a channel estimation value and received quality received from the SDM compatible mobile station and the SDMA mobile station within the communication area (see WALLACE par. 104-106 and ALASTALO par. 57, 58).

Regarding claim 42, WALLACE teaches a base station apparatus according to claim 29, wherein, in a case that the SDMA mobile stations include a SDM compatible

mobile station and a SDM incompatible mobile station (**see par. 104, par. 129**), another transmission beam to the SDM incompatible mobile station is formed by use of a complex-conjugate-transposition of a channel estimation matrix on the SDM incompatible mobile station (**see par. 112, par. 113**), and

ONGGOSANUSI teaches the transmission beam to the SDM compatible mobile station is formed in a manner being orthogonal to a channel estimation matrix on another space division multiple access SDMA mobile stations to access simultaneously (**see col. 9 lines 16-19, wherein the matrix H is represented as the overall channel characteristic for the available signal paths of the transmitted signal, in col. 21 lines 59-60 shows that the beamformer optimize the k-th user BER, wherein the BER depend on the interference, which the lower error rate the lower the interference**).

Regarding claim 43, WALLACE teaches a base station apparatus according to claim 30, wherein, in a case that the SDMA mobile stations include a SDM compatible mobile station and a SDM incompatible mobile station (**see par. 104, par. 129**), another transmission beam to the SDM incompatible mobile station is formed by use of a complex-conjugate-transposition of a channel estimation matrix on the SDM incompatible mobile station (**see par. 112, par. 113**), and

ONGGOSANUSI teaches the transmission beam to the SDM compatible mobile station is formed in a manner being orthogonal to a channel estimation matrix on another space division multiple access SDMA mobile stations to access simultaneously (**see col. 9 lines 16-19, wherein the matrix H is represented as the overall channel**

characteristic for the available signal paths of the transmitted signal, in col. 21 lines 59-60 shows that the beamformer optimize the k-th user BER, wherein the BER depend on the interference, which the lower error rate the lower the interference).

4. Claims 31, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over ONGGOSANUSI et al. (US 7,110,378), WALLACE et al. (US 20020193146), and ALASTALO et al. (US 20010047424) as applied to claims 29, 30 above, and further in view of WALTON et al. (US 20030128658).

Regarding claim 31, WALLACE teaches a base station apparatus according to claim 29, wherein, in a case that the SDM compatible mobile station and a SDM incompatible mobile station are allocated for the SDMA communication at a same time **(see par. 68, mixed mode in multiple access)**, the beam forming section makes, for the SDM incompatible mobile station, a maximum ratio synthetic beam as a transmission beam to the SDM incompatible mobile station **(see par. 67, par. 75 and par. 110)**;

However, ONGGOSANUSI, WALLACE, and ALASTALO do not explicitly teach for the SDM compatible mobile station, another transmission beam as a beam for reducing an interference with another of the SDM incompatible mobile station and the SDM compatible mobile station to access simultaneously.

But, WALTON in the same field of endeavor teach wherein transmit antennas are assigned to a particular frequency subchannel group using the max-max and transmitting channel assigns to terminal for transmit antenna/terminal pairing, which the best SNR is achieved **(see WALTON par. 100-104)**;

Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement the using of max-max for the transmit antennas to assigned a particular frequency subchannel group to provide the best SNR as taught by the WALTON in the system of ONGGOSANUSI, WALLACE, and ALASTALO to provide for the SDM compatible mobile station, another transmission beam as a beam for reducing an interference with another of the SDM incompatible mobile station and the SDM compatible mobile station to access simultaneously.

The motivation would have been to achieve best SNR therefore reducing interference.

Regarding claim 32, WALLACE teaches a base station apparatus according to claim 30, wherein, in a case that the SDM compatible mobile station and a SDM incompatible mobile station are allocated for the SDMA communication at a same time **(see par. 68, mixed mode in multiple access)**, the beam forming section makes, for the SDM incompatible mobile station, a maximum ratio synthetic beam as a transmission beam to the SDM incompatible mobile station **(see par. 67, par. 75 and par. 110)**;

However, ONGGOSANUSI, WALLACE, and ALASTALO do not explicitly teach for the SDM compatible mobile station, another transmission beam as a beam for

reducing an interference with another of the SDM incompatible mobile station and the SDM compatible mobile station to access simultaneously.

But, WALTON in the same field of endeavor teach wherein transmit antennas are assigned to a particular frequency subchannel group using the max-max and transmitting channel assigns to terminal for transmit antenna/terminal pairing, which the best SNR is achieved (**see WALTON par. 100-104**);

Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement the using of max-max for the transmit antennas to assigned a particular frequency subchannel group to provide the best SNR as taught by the WALTON in the system of ONGGOSANUSI, WALLACE, and ALASTALO to provide for the SDM compatible mobile station, another transmission beam as a beam for reducing an interference with another of the SDM incompatible mobile station and the SDM compatible mobile station to access simultaneously.

The motivation would have been to achieve best SNR therefore reducing interference.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. HEATH et al. (US 6,937,592) teaches the base station determines the mode of operation of a wireless communication system between spatial multiplexing and non-spatial multiplexing in response to a transmission-specific variable, the measured transmission characteristic may include one or more of delay spread, post-processing signal-to-noise ratio, CRC failure, residual inter-symbol interference, mean square error, coherence time, path loss (see col. 12 lines 1-5, col. 12 lines 16-26).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THINH D. TRAN whose telephone number is (571)270-3934. The examiner can normally be reached on Monday to Friday from 7:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Ryman can be reached on (571)272-3152. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. D. T./
Examiner, Art Unit 2419
06/04/2009

/DANG T TON/

Supervisory Patent Examiner, Art Unit 2419/D. T. T./
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